

SCOTTSDALE PATH & TRAILS SUBCOMMITTEE REPORT



To: Path and Trails Subcommittee
From: Susan Conklu, Senior Transportation Planner
Subject: Pedal Assist
Meeting Date: June 6, 2017

Action: Information and discussion

Purpose:

Provide update on devices for ADA use such as pedal assist, e-bikes, and Segways.

Information:

In recent years there has been increased use of various devices by bicyclists and pedestrians such as Segways and electric bicycles. Their use varies from recreational vehicles by the general public to mobility devices by people with disabilities, often as an alternative to manual and power wheelchairs and electric scooters. When used by people with mobility disabilities, the devices are called "other power-driven mobility devices" (OPDMD). It is important to understand the definitions of the devices and the regulation for use at the federal, state, and local levels.

Arizona Revised Statutes Definitions [with additional information in brackets]:

Section 28-101.

7. **"Bicycle"** means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

- (a) Two tandem wheels, either of which is more than sixteen inches in diameter.
- (b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

24. **"Electric personal assistive mobility device" [Segway]** means a self-balancing two nontandem wheeled device with an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

46. **"Pedestrian"** means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

Section 28-2516. **Motorized electric or gas powered bicycles or tricycles [which differ from mopeds, motor driven cycles, and motorcycles]; definition**

A. Notwithstanding any other provision of this title:

- 1. A certificate of title is not required for a motorized electric or gas powered bicycle or tricycle.
- 2. Registration is not required for a motorized electric or gas powered bicycle or tricycle.
- 3. Vehicle license tax is not imposed on a motorized electric or gas powered bicycle or tricycle.
- 4. A motorized electric or gas powered bicycle or tricycle is exempt from the provisions of section 28-964 relating to required equipment on motorcycles and motor-driven cycles and from the provisions of title 49, chapter 3, article 5 relating to vehicle emissions inspections.
- 5. A driver license is not required to operate a motorized electric or gas powered bicycle or tricycle.
- 6. A motorized electric or gas powered bicycle or tricycle may use rights-of-way designated for the exclusive use of bicycles. [bike lanes]

7. A motorized electric or gas powered bicycle or tricycle is not subject to chapter 9 of this title.

B. This section does not prohibit a local authority from adopting an ordinance that regulates or prohibits the operation of motorized electric or gas powered bicycles or tricycles, except that a local authority shall not adopt an ordinance that requires registration and licensing of motorized electric or gas powered bicycles or tricycles.

C. For the purposes of this section, "motorized electric or gas powered bicycle or tricycle" means a bicycle or tricycle that is equipped with a helper motor that has a maximum piston displacement of forty-eight cubic centimeters or less, that may also be self-propelled and that is operated at speeds of less than twenty miles per hour.

Electric bicycles vary in the level of power that they provide the rider. On pedal assist bikes the motor is regulated by pedaling. By contrast, e-bikes with power-on-demand utilize a throttle and don't require pedaling when the motor is engaged. As more e-bikes enter the market, there is potential confusion about their top speeds, age requirements, and use on paths, bike lanes, and sidewalks.

Scottsdale prohibits devices with an attached motor or power unit, whether or not it is in operation, upon or within three feet of a multiuse path. This includes electric bicycles and skateboards. Motorized vehicles or devices are also prohibited in McDowell Sonoran Preserve, except in designated parking areas. Exceptions on the paths or within the Preserve include motorized wheelchairs by a person who ordinarily uses such equipment, as well as motorized devices and vehicles for authorized maintenance or emergency purposes. Although Segways have an attached motor, they are currently allowed on paths since users are defined as pedestrians.

The U.S. Department of Justice (DOJ) published revised final regulations implementing the Americans with Disabilities Act (ADA) on September 15, 2010. These requirements clarify how mobility devices, specifically "other power-driven mobility devices" (OPDMD), apply to state and local governments. Due to advances in technology, new devices are being used and additional advanced devices are likely to be invented, providing more mobility options for people.

Under the new ADA rules, an entity may be required to allow a type of device when it is being used by a person who needs it because of a mobility disability even if the device is generally prohibited when being used by someone without a disability. Exceptions include if there is a legitimate safety reason that a certain type of device cannot be used there. The DOJ encourages municipalities to develop written policies and rules regarding which types of OPDMDs are allowed in locations, based on several assessment factors. An entity may ask a person for credible assurance that the device is used because of a disability, but may not ask people about their disabilities.

In October 2015 the State of California passed a new e-bike law to clarify regulation of electric bicycles, designate three classes of e-bikes based on speeds, and allow the use of lower speed e-bikes on paths.

Similarly, in January 2017 Tempe City Council adopted the first electric bike ordinance in Arizona. This ordinance amendment includes the following regulations:

- Defines electric bicycles and electric personal assistance mobility devices as compared to other light motorized vehicles.
- Grants electric bicycles all rights and duties applicable to bicycle riders, including yielding right of way to pedestrians and horses.
- Limits electric bikes to speeds of 28 miles per hour or posted speed limit on roads and bike lanes and 20 miles per hour on shared or multi-use paths.

- Prohibits anyone under the age of 16 from riding an electric bicycle and requires that any rider or passenger under the age of 18 wear a protective helmet.
- Bans the use of trails by gas-powered light motorized vehicles while allowing electric bicycles when helper motor is not engaged.

In spring 2017 a state wide e-bike bill, SB1273, passed the Arizona Senate. This bill was similar to the California legislation, defined three classes of e-bikes, and clarified regulations. It appears this bill did not receive a House floor vote before the legislative session ended.

Next Steps:

Staff will continue researching the regulations for electric bicycles how Scottsdale's ordinance may be updated to allow their use. This will include further research on OPDMDs. Staff will monitor any regional or state changes in e-bike regulations.

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